

भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 2
PART II—Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 26]
No. 26]

नई दिल्ली, शुक्रवार, मई 26, 1972/ज्येष्ठ 5, 1894
NEW DELHI, FRIDAY, MAY 26, 1972/JYAISTHA 5, 1894

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed
as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 26th May, 1972:—

BILL No. 54 of 1972

A Bill to provide for the extension of certain taxation laws to the State of Jammu and Kashmir.

Be it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Taxation Laws (Extension to Jammu and Kashmir) Act, 1972.

Short title and commencement.

(2) It shall come into force on the 1st day of July, 1972.

32 of 1971. 2. (1) The provisions of Chapter VII of the Finance (No. 2) Act, 1971, and all rules made and notifications issued by the Central Government, and all regulations made by the Central Board of Excise and Customs, thereunder shall extend to, and come into force in, the State of Jammu and Kashmir.

Extension of certain taxation laws to Jammu and Kashmir

47 of 1971. (2) The Tax on Postal Articles Act, 1971, and the Inland Air Travel Tax Act, 1971, and all rules made and notifications issued by the Central Government thereunder shall extend to, and come into force in, the State of Jammu and Kashmir.

and amendments thereto.

47 of 1971. (3) With effect from the commencement of this Act, Chapter VII of the Finance (No. 2) Act, 1971, the Tax on Postal Articles Act, 1971, and the Inland Air Travel Tax Act, 1971, shall be amended as specified in the Schedule.

48 of 1971.

Construction of reference to Code of criminal Procedure, 1898.

3. The reference to the Code of Criminal Procedure, 1898, in Chapter VII of the Finance (No. 2) Act, 1971, and in section 8 of the Inland Air Travel Tax Act, 1971, shall, in relation to the State of Jammu and Kashmir, be construed as a reference to the corresponding law in force in that State.

Power to remove difficulties.

4. If, in or in relation to the State of Jammu and Kashmir, any difficulty arises in giving effect to the provisions of Chapter VII of the Finance (No. 2) Act, 1971, or of the Tax on Postal Articles Act, 1971, or of the Inland Air Travel Tax Act, 1971, now extended to the State of Jammu and Kashmir, the Central Government may, as occasion may require, by order notified in the Official Gazette, make such provisions or give such directions, not inconsistent with the provisions of that Chapter or Act, as appear to it to be necessary for the removal of the difficulty:

Provided that no such order shall be made under this section after the expiration of two years from the commencement of this Act.

THE SCHEDULE

(See section 2)

THE FINANCE (No. 2) ACT, 1971

(32 OF 1971)

CHAPTER VII

FOREIGN TRAVEL TAX

Section 43.—(i) In sub-section (1), omit “except the State of Jammu and Kashmir”.

(ii) After sub-section (2), insert—

“Provided that they shall come into force in the State of Jammu and Kashmir on the 1st day of July, 1972.”.

Section 44.—In clause (e),—

(i) in sub-clause (i), for “the territories to which this Chapter extends”, substitute “India”; and

(ii) in sub-clause (ii), for “the said territories”, substitute “India”.

THE TAX ON POSTAL ARTICLES ACT, 1971

(47 OF 1971)

Section 1.—(i) In sub-section (2), omit “except the State of Jammu and Kashmir”.

(ii) After sub-section (3), insert—

“Provided that it shall come into force in the State of Jammu and Kashmir on the 1st day of July, 1972.”.

Section 3.—In sub-section (1), omit “in the territories to which this Act extends”.

THE INLAND AIR TRAVEL TAX ACT, 1971

(48 OF 1971)

Section 1.—(i) In sub-section (2), omit “except the State of Jammu and Kashmir”.

(ii) After sub-section (3), insert—

“Provided that it shall come into force in the State of Jammu and Kashmir on the 1st day of July, 1972.”.

Section 2.—For clause (d), substitute—

(d) “inland journey”, in relation to a passenger, means his journey from any place in India to any other place in India but does not include a journey which is performed on a through international ticket and which precedes, or forms part of a series of journeys

preceding, or follows, or forms part of a series of journeys following, a journey to or from a place outside India on the same ticket.'

Section 4.—For section 4, substitute—

Round-
ing off.

"4. The tax leviable under this Act shall, wherever necessary, be rounded off to the nearest rupee, fifty paise and over being counted as one rupee and less than fifty paise being disregarded."

STATEMENT OF OBJECTS AND REASONS

With a view to mobilising additional resources, a tax called the foreign travel tax was levied under Chapter VII of the Finance (No. 2) Act, 1971, in respect of every international journey by a passenger, where the fare for such journey is paid or is payable in Indian currency. Similarly, for meeting the expenditure for relief of Bangla Desh refugees, the Tax on Postal Articles Act, 1971, and the Inland Air Travel Tax articles transmitted by post and on fares paid by passengers for inland air journeys.

2. The subject matter of the aforesaid Chapter and Acts is relatable to the residuary entry, namely, entry 97 of List I in the Seventh Schedule to the Constitution. Under that entry as it stood at the time of enactment of the aforesaid Chapter and Acts, Parliament had no power to extend the said Chapter and Acts to the State of Jammu and Kashmir.

3. Under article 370 of the Constitution, entry 97 in List I has since been applied to the State of Jammu and Kashmir with necessary modifications. The Bill accordingly seeks to extend the aforesaid Chapter and Acts to that State with effect from the 1st July, 1972.

NEW DELHI;

K. R. GANESH.

The 17th May, 1972.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 32/5/71-ST, dated the 18th May, 1972, from Shri K. R. Ganesh, Minister of State in the Ministry of Finance, to the Secretary, Lok Sabha.]

The President having been informed of the subject matter of the proposed Bill, recommends under clauses (1) and (3) of article 117 of the Constitution of India, the introduction of the Bill to provide for the extension of certain taxation laws to the State of Jammu and Kashmir, in the Lok Sabha and also recommends to the Lok Sabha the consideration of the Bill.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the extension of—

(i) Chapter VII of the Finance (No. 2) Act, 1971, which provides for the levy of foreign travel tax;

(ii) the Tax on Postal Articles Act, 1971; and

(iii) the Inland Air Travel Tax Act, 1971,

to the State of Jammu and Kashmir with effect from the 1st July, 1972.

2. The foreign travel tax and the inland air travel tax are collected from the passengers by the carriers and paid to the Central Government and the carriers are paid collection charges therefor.

3. While the extension of Chapter VII of the Finance (No. 2) Act, 1971 to the State of Jammu and Kashmir is not likely to result in any additional revenue by way of tax as the tax is chargeable from the last Indian airport from which the foreign flight takes off, it will prevent any possible evasion of payment of foreign travel tax by resort to the device of chartered flights, etc., from the State of Jammu and Kashmir. Nor will any expenditure be incurred on account of the extension of the said Chapter to the State of Jammu and Kashmir.

4. The extension of the Inland Air Travel Tax Act, 1971 to the State of Jammu and Kashmir is expected to yield rupees three lakhs per annum by way of additional revenue and a sum of rupees fifteen thousand would be payable in a year as collection charges to the carriers' for this tax.

5. The Tax on Postal Articles Act, 1971 is administered through the existing machinery of the Posts and Telegraphs Department. The extension of this Act to the State of Jammu and Kashmir will, however, require printing of additional letter cards, letters and stamps bearing the inscription "refugee relief" and it is expected that it will involve an expenditure of about rupees thirty thousand per annum.

6. The total recurring expenditure to be incurred per annum in connection with the extension of the said Chapter and Acts to the State of Jammu and Kashmir is thus estimated to be rupees forty-five thousand (rupees fifteen thousand by way of collection charges on account of inland air travel tax payable to the carriers and rupees thirty thousand by way of printing of letter cards, letters and stamps). The Bill does not involve any non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill authorises the Central Government to make, by order to be notified in the Official Gazette, such provisions or give such directions, as may be necessary for the removal of any difficulty that may arise for giving effect to the provisions of Chapter VII of the Finance (No. 2) Act, 1971, or of the Tax on Postal Articles Act, 1971, or of the Inland Air Travel Tax Act, 1971, in or in relation to the State of Jammu and Kashmir. The delegation of this power, which can be exercised only for a period of two years from the commencement of the proposed legislation, is of a normal character.

BILL NO. 55 OF 1972

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

Short title
and com-
mence-
ment.

1. (1) This Act may be called the Constitution (Thirty-First Amendment) Act, 1972.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion
of new
article
312A.

2. After article 312 of the Constitution, the following article shall be inserted, namely:—

Power of
Parlia-
ment to
vary or
revoke
conditions
of service
of officers
of certain
services.

“312A. (1) Parliament may by law—

(a) vary or revoke, whether prospectively or retrospectively, the conditions of service as respects remuneration, leave and pension and the rights as respects disciplinary matters of persons who, having been appointed by the Secretary of State or Secretary of State in Council to a civil service of the Crown in India before the commencement of this Constitution, continue on and after the commencement of the Constitution (Thirty-First Amendment) Act, 1972, to serve under the Government of India or of a State in any service or post;

(b) vary or revoke, whether prospectively or retrospectively, the conditions of service as respects pension of persons who, having been appointed by the Secretary of State or Secretary of State in Council to a civil service of the Crown in India before the commencement of this Constitution, retired or otherwise ceased to be in service at any time before the commencement of the Constitution (Thirty-First Amendment) Act, 1972:

Provided that in the case of any such person who is holding or has held the office of the Chief Justice or other Judge of the Supreme Court or a High Court, the Comptroller and Auditor-General of India, the Chairman or other member of the Union or a State Public Service Commission or the Chief Election Commissioner, nothing in sub-clause (a) or sub-clause (b) shall be construed as empowering Parliament to vary or revoke, after his appointment to such post, the conditions of his service to his disadvantage except in so far as such conditions of service are applicable to him by reason of his being a person appointed by the Secretary of State or Secretary of State in Council to a civil service of the Crown in India.

(2) Except to the extent provided for by Parliament by law under this article, nothing in this article shall affect the power of any legislature or other authority under any other provision of this Constitution to regulate the conditions of service of persons referred to in clause (1).

(3) Neither the Supreme Court nor any other court shall have jurisdiction in—

(a) any dispute arising out of any provision of, or any endorsement on, any covenant, agreement or other similar instrument which was entered into or executed by any person referred to in clause (1), or arising out of any letter issued to such person, in relation to his appointment to any civil service of the Crown in India or his continuance in service under the Government of the Dominion of India or a Province thereof;

(b) any dispute in respect of any right, liability or obligation under article 314 as originally enacted.

(4) The provisions of this article shall have effect notwithstanding anything in article 314 as originally enacted or in any other provision of this Constitution.”

3. Article 314 of the Constitution shall be omitted.

Omission
of article
314.

STATEMENT OF OBJECTS AND REASONS

Article 314 of the Constitution guarantees to persons who were appointed by the Secretary of State or Secretary of State in Council to a civil service of the Crown in India and who continued to serve after the commencement of the Constitution under the Government of India or of a State the same conditions of service as respects remuneration, leave and pension and the same rights as respects disciplinary matters or rights as similar thereto as changed circumstances may permit, as such persons were entitled to immediately before such commencement. The concept of a class of officers with immutable conditions of service is incompatible with the changed social order. It is, therefore, considered necessary to amend the Constitution to provide for the deletion of article 314 and for the inclusion of a new article 312A which confers powers on Parliament to vary or revoke by law the conditions of service of the officers aforesaid and contains appropriate consequential and incidental provisions.

2. The Bill seeks to give effect to the above objects.

NEW DELHI;
The 22nd May, 1972.

RAM NIWAS MIRDHA.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE
CONSTITUTION OF INDIA

[Copy of letter No. 14/2/72-AIS(II), dated the 20th May, 1972, from Shri Ram Niwas Mirdha, Minister of State in the Ministry of Home Affairs and in the Department of Personnel, to the Secretary, Lok Sabha.]

The President having been informed of the subject matter of the Bill further to amend the Constitution of India, recommends, under clause (1) of article 117, the introduction of the said Bill in the Lok Sabha.

BILL No. 56 OF 1972

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Thirty-second Amendment) Act, 1972. Short title.

2. In the Ninth Schedule to the Constitution, after entry 64 and before the *Explanation*, the following entries shall be inserted, namely:— Amendment of Ninth Schedule.

“65. The Kerala Land Reforms (Amendment) Act, 1969 (Kerala Act 35 of 1969).

66. The Kerala Land Reforms (Amendment) Act, 1971 (Kerala Act 25 of 1971).”.

STATEMENT OF OBJECTS AND REASONS

The Kerala Land Reforms Act, 1963 (Act 1 of 1964), is the principal land reform law in the State of Kerala and was included in the Ninth Schedule to the Constitution. In the course of implementation, the State Government faced serious practical difficulties and to overcome them, that Act was extensively amended by the Kerala Land Reforms (Amendment) Act, 1969 (Act 35 of 1969) and by the Kerala Land Reforms (Amendment) Act, 1971 (Act 25 of 1971). Certain crucial provisions of the principal Act as amended were challenged in the High Court of Kerala and in the Supreme Court, creating a climate of uncertainty in the effective implementation of land reforms. Although the High Court of Kerala has generally upheld the scheme of land reforms envisaged in the principal Act as amended, a few vital provisions have been struck down by the High Court. Even in regard to the provisions upheld by the High Court, the affected parties had moved the Supreme Court in appeal. Some persons also moved the Supreme Court in original petitions challenging certain provisions of the Act. The Supreme Court in its judgments delivered on 26th and 28th April, 1972, have generally upheld the scheme of land reforms as envisaged in the principal Act as amended but agreed with the High Court invalidating certain crucial provisions. It is feared that this will have far-reaching adverse effects on the implementation of the programme of land reforms in the State and thousands of tenants will be adversely affected by some of the provisions which have been either struck down or rendered ineffective. It is also apprehended that certain observations of the Supreme Court in the judgments might open the floodgates of litigation much to the detriment of thousand of Kudikidappukars in the State who will not be able to defend themselves in protracted legal proceedings. Further, appeals have been preferred against the judgement of the Kerala High Court invalidating certain important provisions of the principal Act as amended [e.g. sections 4A (1) (a) and (b), 7, 7B (1) and 106] and are pending in the Supreme Court.

2. It is, therefore, proposed to include the Kerala Land Reforms (Amendment) Act, 1969 and the Kerala Land Reforms (Amendment) Act, 1971 in the Ninth Schedule to the Constitution so that they may have the protection under article 31B and any uncertainty or doubt that may arise in regard to the validity of those Acts is removed. The Bill seeks to achieve this object.

NEW DELHI;

H.R. GOKHALE.

The 24th May, 1972.

BILL NO. 58 OF 1972

A Bill to impose certain restrictions on transfer of lands which have been acquired by the Central Government or in respect of which acquisition proceedings have been initiated by that Government, with a view to preventing large-scale transactions of purported transfers or, as the case may be, transfers of such lands to unwary public.

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

- | | |
|--|--|
| 1. (1) This Act may be called the Delhi Lands (Restrictions on Transfer) Act, 1972. | Short
title,
extent
and
commence-
ment. |
| (2) It extends to the whole of the Union territory of Delhi. | |
| (3) It shall come into force at once. | |
| 2. In this Act, unless the context otherwise requires,— | Defini-
tions. |
| (a) "Administrator" means the administrator of the Union territory of Delhi appointed by the President under article 239 of the Constitution; | |
| (b) "competent authority" means any person or authority authorised by the Administrator, by notification in the Official Gazette, to perform the functions of the competent authority under this Act for such areas as may be specified in the notification; | |

(c) "Development Act" means the Delhi Development Act, 1957; 61 of 1957.

(d) "prescribed" means prescribed by rules made under this Act;

(e) "Scheme" means the scheme of acquisition of land for the planned development of Delhi and includes any scheme, project or work to be implemented in pursuance of the provisions of the Delhi Master Plan as approved by the Central Government under sub-section (2) of section 9 of the Development Act.

Prohibition on transfer of lands acquired by Central Government.

3. No person shall purport to transfer by sale, mortgage, gift, lease or otherwise any land or part thereof situated in the Union territory of Delhi, which has been acquired by the Central Government under the Land Acquisition Act, 1894, or under any other law providing for acquisition 1 of 1894. of land for a public purpose.

Regulation of transfer of lands in relation to which acquisition proceedings have been initiated.

4. No person shall, except with the previous permission in writing of the competent authority, transfer or purport to transfer by sale, mortgage, gift, lease or otherwise any land or part thereof situated in the Union territory of Delhi, which is proposed to be acquired in connection with the Scheme and in relation to which a declaration to the effect that such land or part thereof is needed for a public purpose having been made by the Central Government under section 6 of the Land Acquisition Act, 1894, the Central Government has not withdrawn from the acquisition 1 of 1894 under section 48 of that Act.

Application for grant of permission for transfer under section 4.

5. (1) Any person desiring to transfer any land referred to in section 4 by sale, mortgage, gift, lease or otherwise may make an application in writing to the competent authority containing such particulars as may be prescribed.

(2) On receipt of an application under sub-section (1), the competent authority shall, after making such inquiries as it deems fit, may, by order in writing, grant or refuse to grant the permission applied for.

(3) The competent authority shall not refuse to grant the permission applied for under this section except on one or more of the following grounds, namely:—

(i) that the land is needed or is likely to be needed for the effective implementation of the Scheme;

(ii) that the land is needed or is likely to be needed for securing the objects of the Delhi Development Authority referred to in section 6 of the Development Act;

(iii) that the land is needed or is likely to be needed for any development within the meaning of clause (d) of section 2 of the Development Act or for such things as public buildings and other public works and utilities, roads, housing, recreation, industry, business, markets, schools and other educational institutions, hospitals and public open spaces and other categories of public uses.

(4) Where the competent authority refuses to grant the permission applied for, it shall record in writing the reasons for doing so and a copy of the same shall be communicated to the applicant.

(5) Where within a period of thirty days of the date of receipt of an application under this section the competent authority does not refuse to grant the permission applied for or does not communicate the refusal to the applicant, the competent authority shall be deemed to have granted the permission applied for.

6. (1) Any person aggrieved by an order of the competent authority under section 5 may, within thirty days of the date of receipt of the order by him, file an appeal to the prescribed authority in such form and containing such particulars as may be prescribed.

Appeals
against
orders
of com-
petent
authority.

(2) On receipt of an appeal under sub-section (1), the prescribed authority shall, after giving the appellant an opportunity of being heard in the matter, dispose of the appeal as expeditiously as possible.

(3) Every order made by the prescribed authority in appeal under this section shall be final.

7. Where the competent authority has made any order under section 5 refusing to grant permission to transfer any land or where, an appeal having been filed against such order, the prescribed authority has made an order under section 6 confirming such order, then, the order refusing to grant permission to transfer such land shall be in operation only for a period of three years from the date of the order made by the competent authority or the prescribed authority, as the case may be, and thereafter, but subject to the provisions of section 3, it shall be lawful for the person who has applied for permission, or his successor-in-interest, to transfer such land by sale, mortgage, gift, lease or otherwise.

Period
of opera-
tion of
orders
of refusal
to grant
permis-
sion to
transfer
land.

Explanation.—In computing the period of three years, under this section, in relation to any land, the period during which the acquisition proceedings in relation to such land have been stayed by any court shall be excluded.

8. Notwithstanding anything contained in any other law for the time being in force, where any document required to be registered under the provisions of clause (a) to clause (e) of sub-section (1) of section 17 of the Registration Act, 1908, purports to transfer by sale, mortgage, gift, lease or otherwise any land or part thereof referred to in section 4, no registering officer appointed under that Act shall register any such document unless the transferer produces before such registering officer a permission in writing of the competent authority for such transfer.

Restric-
tions on
registra-
tion of
transfers
of land.

9. If any person contravenes the provisions of section 3 or section 4, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

Penalty.

10. (1) If the person committing an offence under this Act is a company, every person, who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences
by com-
panies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), when an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

Power to
make
rules.

11. (1) The Administrator may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing provision, such rules may provide for all or any of the following matters, namely:—

(a) the particulars which an application to be made under sub-section (1) of section 5 shall contain;

(b) the authority to which an appeal may be filed under sub-section (1) of section 6, the form in which such appeal may be filed and the particulars which such appeal shall contain;

(c) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Unauthorised sale of plots of lands in Delhi by private colonisers to general public has assumed serious proportions. The colonisers sell plots of land which have either already been acquired or notified for acquisition by the Delhi Administration for planned development of Delhi, etc. without informing the intending purchasers of the factual position. This creates complications inasmuch as unauthorised colonies lacking in essential civic amenities come up illegally and vitiate the entire planning effort.

2. Further, sales of plots of land which have either already been acquired or notified for acquisition by the Delhi Administration have caused undue hardship to many purchasers of such land who have parted with their valuable savings without having obtained any valid title.

3. The present Bill is intended to put an end to this unscrupulous practice and to protect the general public from such illegal transactions in the Union territory of Delhi.

NEW DELHI;

I. K. GUJRAL.

The 23rd May, 1972.

FINANCIAL MEMORANDUM

Clause 2(b) of the Bill provides for the authorisation by the Administrator of any person or authority as competent authority for the purposes of the Act. Clause 6 provides for the filing of an appeal against the orders of the competent authority to the prescribed authority. It is not the intention at present to make any fresh appointments as competent authorities or prescribed authorities. However, some expenditure may have to be incurred towards office equipment, etc. On this account, the expenditure is not likely to exceed ten thousand rupees per annum. There will be no non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Administrator to make rules for carrying out the purposes of the Act. Sub-clause (2) of the clause enumerates the matters with respect to which rules may be made. The matters specified in that sub-clause are of administrative detail or of routine nature.

2. The delegation of legislative power is of a normal character.

S. L. SHAKDHER,
Secretary.

